



UNITED STATES PATENT AND TRADEMARK OFFICE

Handwritten signature or mark

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,361	01/23/2004	Patrick P. Hussey	2897-PAT	7591
30084	7590	05/18/2005	EXAMINER	
DONN K. HARMS PATENT & TRADEMARK LAW CENTER SUITE 100 12702 VIA CORTINA DEL MAR, CA 92014			NERBUN, PETER P	
			ART UNIT	PAPER NUMBER
			3765	
DATE MAILED: 05/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/763,361	Applicant(s) HUSSEY, PATRICK P.	
	Examiner Peter P. Nerbun	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,13 and 14 is/are rejected.
- 7) ☒ Claim(s) 3-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01232004</u> . | 6) <input type="checkbox"/> Other: _____ |

The disclosure is objected to for containing a grammatical error. On page 14, line 22, after "actively", --to-- should be inserted.

Claim 1 is objected to for containing a grammatical error. In claim 1, line 11, "at least intake aperture" should be changed to --at least one intake aperture--.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Desimone et al. The patent to Desimone et al discloses a goggle having an air venting system comprising: a goggle body 11, Fig. 1, a lens 14 mounted in a lens aperture, an eye cavity, at least one intake aperture 12, Fig. 2 communicating through said goggle body with said eye cavity; and at least one clip 16, Fig. 5, said clip having a leading edge (at 26, Fig. 1), a trailing edge (adjacent 32), connected by a pair of side edges, an interior clip surface and an exterior clip surface; a clip aperture 17, Fig. 5 communicating through said clip between said interior surface and said exterior surface; means of attachment 27 of said clip to said sidewall; and said exterior surface of said clip between said clip aperture and said leading edge dimensioned to create a low air pressure area immediately adjacent to said clip aperture when moving air travels over said leading edge. With regard to claims 13 and 14 it is noted that applicant recites "at least one clip is a member of a kit of clips". Claims 13 and 14 are both directed to a sport goggle. Recitation of a "kit of clips" does not further limit these claims since only

Art Unit: 3765

one clip is present on the goggle at any one time. Therefore the clip structure of the goggle is defined by a single clip rather than by all the members of a kit of clips. The clip of Desimone is a member of a kit of clips since Desimone's clip may be removed and replaced with another clip.

Claims 3-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter P. Nerbun whose telephone number is 571-272-4992. The examiner can normally be reached on M-F (1st Week) M-Th (2d Week).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter Nerbun
May 13, 2005


Peter Nerbun
Primary Examiner